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09/829,306	04/09/2001	Carl A. Caspers	13722-178	6882

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EXAMINER	
MATTHEWS, WILLIAM H	

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Paper No. 19

Application Number: 09/829,306
Filing Date: April 09, 2001
Appellant(s): CASPERS, CARL A.

Gerald Helget
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7-25-03.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

The rejection of claims 1 and 4-6 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,549,709	CASPERS	9-1996
5,728,169	NORVELL	3-1998

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1,4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caspers US PN 5,549,709 in view of Norvell US PN 5,728,169.

Caspers '709 discloses in figure 8, lines 16-19 of col. 5, lines 24-29 of col. 6, and lines 30-36 of col. 7 an artificial limb comprising liner 92 encasing limb 14, liner 60B spaced away from limb 14, outer socket 52, non-foamed non-porous polyurethane seal means 84/86, a vacuum 70 connected to both the space between liner 60B and limb 14 and the space between liner 60B and outer socket 52, regulator 80 capable of maintaining a vacuum in the event air leakage occurs at the seal means, power source 83, and a weight-actuated vacuum pump. Caspers '709 lacks the express written disclosure of the limb encasing liner 92 comprising an osmotic membrane material. Norvell '169 teaches in lines 1-15 of col. 5 and lines 47-49 of col. 8 an artificial limb liner for encasing a limb comprising an osmotic membrane in order to wick perspiration away from the limb providing extra comfort.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the artificial limb disclosed by Caspers '709 by substituting the

liner 92 with the osmotic membrane liner taught by Norvell '169 in order to wick perspiration away from the limb providing extra comfort to the wearer.

(11) Response to Argument

First, Applicant states Caspers '709 lacks a vacuum connected to the space between liner 92 and limb 14, and that Norvell '169 does not teach the limitation. However, Applicant has misinterpreted the Examiner's rejection. The Examiner describes a vacuum connected to the space between **liner 60B** and limb 14. Note, as interpreted by the Examiner, figure 8 of Caspers '709 shows liner 92 and an inner socket 60B which the Examiner has interpreted as reading on the liner set forth in the claims, outer socket 52, first space 58 between outersocket 52 and liner 60B, second space 62 between liner 60B and limb 14, seal means 84,86, regulator 80, and vacuum 70. .

Second, with regard to substituting liner 92 of Caspers '709 with the osmotic membrane liner taught by Norvell '169, Applicant interprets Norvell to teach away from the substitution because Norvell '169 Col. 2 lines 41-44 states "For example, when inserted into a tight fitting silicone sleeve regularly worn between the wearer and prosthesis, the bunching of the PTFE material around the side of the limb can lead to chafing and maceration." Examiner disagrees because Norvell '169 uses Col. 2 lines 41-44 to describe problems associated with the prior art PTFE liners (osmotic membrane liners), namely bunching and chafing when used with silicon sleeves. Furthermore, Norvell '169 discloses in Col. 3 lines 6-15, 40-47,52-55, Col. 4 lines 1-27, and Col. 8 lines 40-43 that the invention overcomes the problems associated with the

prior art and is designed for use with non-breathable silicone sleeves while preventing bunching and/or chafing. Norvell teaches an improved liner to increase comfort for use with prosthetic devices (Col. 8 47-49) and therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the liner disclosed by Caspers '709 with the osmotic membrane liner taught by Norvell '169 to increase comfort.

Finally, Applicant states Casper's '709 lacks "a means to maintain a vacuum in the first space and the second space, in the presence of some air leakage past the seal means." Examiner has noted regulator 80,82 for vacuum 70,72 in figure 8 of Caspers '709 which would maintain some degree of vacuum in the presence of **some** air leakage past the seal means.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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September 17, 2003

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